

# 2003 Wisconsin Act 228

## Managed Forest Law Revision

### Fact Sheet

**2003 Wisconsin Act 228** was signed by Governor Doyle on April 13, 2004. This Act implements revisions to the Managed Forest Law (MFL) which came directly from recommendations made by the Governor's Council on Forestry's December 2002, Review of Wisconsin's Managed Forest Law report. Most of the changes included in the revision are effective immediately but some have a delayed effective date. These delays were provided to allow the department time to create the programs/process to go with the revisions or to plan for revenue changes in the forestry account.

The changes enacted in this Act are described below. They have been divided into sections based on the effective date of the change.

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#### **I. CHANGES EFFECTIVE IMMEDIATELY**

A.) **New MFL Application Deadline set at July 1** (18 months prior to the effective date of entry) for owners of less than 1,000 acres. This deadline replaces the former January 31 deadline. All complete applications received by July 1 will be processed for entry effective the second January 1 (e.g., a complete application received by July 1, 2004 is eligible for entry effective January 1, 2006). There will be a second application date as well for landowners who submit their application with an approved management plan. See Section III. B.

B.) **MFL Application Fee raised to \$300.** A \$300 fee must accompany the application. Complete applications submitted prior to publication with a \$100 application fee will be accepted as is. The application fee for applications submitted with an approvable management plan package remains at \$20. The application fee for additions remains at \$20 but there are other restrictions on additions covered below.

C.) **Deed(s) submitted with the application must be recorded.** A copy of the *recorded* legal instrument (e.g., deed, land contract, etc.) showing ownership of the land applied for entry must accompany the application. Documents that have not been recorded will not be accepted as proof of ownership for entry.

D.) **Additions to NEW MFL entries (entered January 1, 2005 or later) will be allowed.** The rules for these additions will be same as in the past (minimum of 3 acres, contiguous to the MFL entry, same ownership and municipality)

E.) **Additions to old MFL entries (entered prior to January 1, 2005) will not be allowed.** Two provisions have been provided for cases when an owner was considering adding contiguous lands to an old MFL entry.

- 1) If the new land being considered for entry is 10 or more acres and meets the entry requirements for MFL it must be entered under a NEW and separate order.
- 2) If the new land being considered for entry is less than 10 acres or it does not meet the entry requirements for MFL the owner has an option to withdraw the old entry and re-enter with the new land. The entire old MFL entry contiguous to the new parcel is withdrawn without penalty. Then the original acres along with the new acres would be entered under a NEW and separate order. All acres would be taxed under the new MFL tax rates described later in this fact sheet.

F.) **Closed Acreage allowed increased to 160 for new enrollees.** Anyone entering land under managed forest law effective January 1, 2005 or later may have up to 160 acres closed to public access per municipality (city, town, village). No more than 80 of the 160 acres may have been entered in 2004 or earlier.

G.) **MFL Tax Rates are changing for NEW MFL entries.** Beginning with MFL entries effective January 1, 2005 a new formula will be used to calculate MFL rates. The rates for use in 2005 – 2007 are listed below. Rates are scheduled to be recalculated for 2008 and every 5<sup>th</sup> year thereafter. The new formula sets the acreage share tax at 5% of the average statewide tax on forest land and the closed acreage fee at 20% of this average. Lands

designated as *open* to public access pay the acreage share tax and lands designated as *closed* pay the acreage share tax plus the closed acreage fee. The rates calculated for old MFL orders will continue to be calculated based on the old formula. All acreage share taxes are split between the municipality (80%) and county (20%) where the land is located.

**Table 1: Old and New MFL Rates**

	Current Rates Old entries	New rates
Open Lands*	\$0.83	\$1.46
Closed Lands †	\$1.95	\$7.28

\* Rates on *open* lands = acreage share tax

† Rates for *closed* lands = acreage share tax plus closed acreage fee

- H.) **The open/closed designation of MFL land may be modified up to 2 times.** The designation of open and closed lands may be modified up to two times per MFL entry. This applies to all MFL entries (old and new). Any modifications to the open and closed designation must follow statutory and administrative code guidelines. The open and closed designation may be modified in conjunction with a transfer or withdrawal as well.
- I.) **The Transfer Fee set at \$100.** This is the fee required when land currently under the managed forest law is transferred to another ownership. The revised fee will be required on any transfer received after *April 27, 2004*.
- J.) **\$300 Withdrawal Fee is created.** The withdrawal fee will be added to the withdrawal tax assessed when land is removed from managed forest law designation early (before the 25 or 50 year order period is completed). The fee will be assessed on all withdrawals received after *April 27, 2004*.
- K.) **\$250 non-compliance penalty provision is established.** The non-compliance penalty will be assessed when an owner fails to carry out mandatory forestry practices covered in the MFL management plan. The penalty will be used to gain compliance when necessary and will be billed and collected by the municipality where the land is located. The penalty will be shared between the municipality (80%) and county (20%).
- L.) **No Yield Tax in first 5 years of NEW MFL entries.** The 5% yield tax assessed on timber harvested from MFL land will be waived for the first 5 years of NEW MFL orders. This 5-year waiver does not apply when an FCL contract is converted to MFL prior to the expiration of the contract or to renewals of expiring MFL orders.
- M.) **Withdrawal for delinquent personal property tax.** If the personal property tax assessed against a building on land designated as MFL is delinquent the land will be withdrawn from MFL designation. And a withdrawal tax and withdrawal fee will be assessed against it.
- N.) **Qualifying forested lands with in a city are eligible for entry.** Formerly only lands in towns or villages were eligible for entry.

## **II. CHANGES EFFECTIVE July 1, 2004**

- A.) **Change in the distribution of Yield Tax collections.** Beginning July 1, 2004 100% of all yield taxes collected will be split between the municipality (80%) and the county (20%) where the MFL land is located. The state will no longer retain 50% of the yield tax.
- B.) **Change in the distribution of Withdrawal Tax collections.** Beginning July 1, 2004 100% of all withdrawal taxes collected will be split between the municipality (80%) and the county (20%) where the MFL land is located. The state will no longer retain 50% of the withdrawal tax.

## **III. CHANGES EFFECTIVE (in 18 months)**

- A.) **All management plans must be prepared by a Certified Plan Writer or the DNR Forester.** Beginning *November 1, 2005* all MFL plans must be prepared by a plan writer certified by the department. The delayed effective date of this provision was provided to allow the department time to establish a certified plan writer process.
- B.) **Second application deadline created – May 15, (7 ½ months prior to effective date of entry).** Beginning in 2006 there will be a second deadline for filing MFL applications. **Complete applications submitted with a completed management plan package by May 15** will be considered for entry effective the first January 1 (e.g., completed application with completed plan received May 15, 2006 is eligible for entry January 1, 2007.) This provision does not eliminate the July 1 deadline; it merely provides an opportunity for landowners to have a shorter period between the application deadline and the effective date of the entry if they can supply a completed management plan package. The management plan package must include, on department forms, 1) forest stand data, 2) map(s) of land being entered, 3) legal description and acreage information for land being entered, and 4) a written plan. The written plan must be prepared by a Certified Plan Writer (provision above) and be approved by the department before submission with the application.